

**COMMONWEALTH OF MASSACHUSETTS
BEFORE THE
DEPARTMENT OF TELECOMMUNICATIONS AND ENERGY**

Petition of Massachusetts Electric Company)	
and Nantucket Electric Company for approval to)	
maintain the current standard offer service)	D.T.E. 03-123
fuel adjustment and approval of)	
"Now is the Time to Choose" program.)	

**PETITION TO INTERVENE OF
TRANSCANADA POWER MARKETING, LTD.**

Pursuant to 220 CMR 1.03(1)(a), TransCanada Power Marketing, Ltd. ("TransCanada") hereby submits its petition to the Department of Telecommunications and Energy ("Department") to intervene as a full party in the above-captioned proceeding. In support hereof, TransCanada states as follows:

1. TransCanada is a Delaware corporation with its principal place of business at 110 Turnpike Road, Suite 203, Westborough, Massachusetts 01581.
2. TransCanada is a supplier of backstop wholesale Standard Offer Service to certain load serving entities in New England, including among others, Massachusetts Electric Company and Nantucket Electric Company ("collectively, "Mass. Electric"). As a result, TransCanada is among the suppliers that sell energy to Mass. Electric that Mass. Electric thereafter resells to its retail Standard Offer Service customers. TransCanada has entered into certain long-term supply contracts to provide its backstop Standard Offer Service to Mass. Electric. TransCanada also enters into short-term arrangements, *i.e.*, contracts with terms of one year or less, under which it must estimate its requirements for providing backstop Standard Offer Service for the ensuing time period.

3. On October 30, 2003, Mass. Electric filed with the Department a proposal to authorize Mass. Electric to: (i) maintain the currently approved Standard Offer Service Fuel Adjustment (“SOSFA”) surcharge of 1.424¢ per kilowatt-hour through the remainder of the Standard Offer Service period; (ii) approve a new program Mass. Electric has designated as the *Now Is the Time to Choose* program; and (iii) find that the *Now Is the Time to Choose* program is consistent with the restructuring settlement and wholesale Standard Offer Service contracts that Mass. Electric executed and the Department approved in Docket No. D.P.U./D.T.E. 96-25.

4. Although Mass. Electric’s October 30, 2003 filing does not explain the details of how Mass. Electric intends to implement the *Now is the Time to Choose* program, it is clear from the filing that a critical element of the program would entail Mass. Electric working with alternative suppliers to induce retail customers to terminate their purchases of retail Standard Offer Service.

5. TransCanada agreed to provide backstop wholesale Standard Offer Service upon the reasonable belief that Mass. Electric: (i) would not actively attempt to induce retail customers to cease their participation in the Standard Offer Service program; (ii) would not take actions that detrimentally would impact suppliers that had contracted to provide backstop Standard Offer Service; and (iii) would continue to buy supplies from wholesale suppliers of Standard Offer regardless of prices available in spot markets.

6. To the extent that customers depart from Standard Offer Service, Mass. Electric necessarily will reduce its purchases from wholesale Standard Offer Service Suppliers, including TransCanada. Thus, to the extent Mass. Electric were to successfully implement the *Now is the Time to Choose* program, that occurrence would have an adverse financial impact upon TransCanada.

7. Accordingly, TransCanada has a significant interest in the outcome of this proceeding and wishes to protect its interests by participating herein. No other party adequately can protect TransCanada's interests.

8. Given the above, TransCanada is "substantially and specifically affected" by this proceeding as set forth in the General Laws and the Department's regulations.

9. If granted intervenor status, TransCanada seeks all the rights of a full party, including the right to serve and obtain discovery, cross-examine witnesses, present testimony, submit briefs and present oral argument.

10. If granted intervenor status, TransCanada's intention would be to submit evidence that shows that an attempt by Mass. Electric to induce customers to depart from Standard Offer Service would be a breach of: (i) the reasonable understandings under which TransCanada agreed to provide backstop wholesale Standard Offer Service, (ii) representations that Mass. Electric made prior to any supplier agreeing to provide wholesale Standard Offer Service, (iii) Mass. Electric's covenant of good faith and fair dealing and (iv) its covenant not to compete with TransCanada.

11. Based upon the foregoing, the relief TransCanada will seek is the Department's rejection of the *Now is the Time to Choose* program.

12. TransCanada requests that all notices, pleadings and correspondence pertaining to these proceedings be directed to the persons identified below:

Angela Avery*
Senior Regulatory Counsel
TransCanada Power Marketing Ltd.
5th Floor
450 – 1st Street S.W.
Calgary, Alberta, T2P 5H1
(403) 920-2171
(403) 920-2354 Fax

William C. (Bill) Taylor*
Vice-President, Eastern Power
TransCanada Power Marketing Ltd.
110 Turnpike Road
Suite 203
Westborough, Massachusetts 01581
(508) 871-1855
(508) 898-0433 Fax


Frederick S. Frei
Mark F. Sundback
Kenneth L. Wiseman*
Andrews & Kurth L.L.P.
1701 Pennsylvania Avenue, N.W.
Suite 300
Washington, D.C. 20006
(202) 662-2700
(202) 662-2739 Fax

* Designated to receive service

WHEREFORE, TransCanada respectfully requests that the Department grant this petition for intervention and reject the *Now is the Time to Choose* program.

Respectfully submitted,

TRANSCANADA POWER MARKETING, LTD.
By its attorneys,




Frederick S. Frei (BBO #554234)
Kenneth L. Wiseman
(Pending Admission *Pro Hac Vice*)
Mark F. Sundback
(Pending Admission *Pro Hac Vice*)
Andrews Kurth LLP
1701 Pennsylvania Avenue, N.W., Suite 300
Washington, D.C. 20006
Tel: (202) 662-2700
Fax: (202) 662-2739

Dated: December 12, 2003

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing was this day served by first-class mail, postage prepaid, to Thomas G. Robinson and Amy G. Rabinowitz, Massachusetts Electric Company, 25 Research Drive, Westborough, MA 01582-0099.



Frederick S. Frei

Dated: December 12, 2003